

Legal Week

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Freshfields ruling could help enforce lockstep

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UK partnerships could enjoy greater flexibility in enforcing lockstep following yesterday's long-awaited judgement on Freshfields Bruckhaus Deringer's age discrimination case, employment lawyers believe.

Freshfields' victory in its high-profile age discrimination case yesterday could be applied in a wider setting and helps clarify some of the potentially discriminatory issues surrounding the use of lockstep according to many partners.

One top 10 head of employment commented: "The result will give partnerships the flexibility to introduce the changes they feel appropriate. Although Freshfields' pensions reform was unique, the point is it was found to be discriminatory and yet legitimate. Basically, as long as you are as thorough in your reforms as Freshfields obviously was, you are off the hook."

Employment partners have for some time questioned the use of a system where promotion is dependant on age, believing it could potentially be viewed as discriminatory under the new laws unless partnerships can prove it is a proportionate way of achieving its aim.

Employment specialist Ronnie Fox of boutique Fox Law said: "This case has drawn attention to the potential discriminatory nature of the lockstep. It shows that any indirect discrimination as a result can probably be justified, although partners may need to amend their partnership deeds to explain why the method is proportionate."

Yesterday's result is being closely scrutinised by the employment community as the first real test for partnerships of the UK's new age discrimination laws.

Linklaters employment chief Raymond Jeffers commented: "Lawyers have been waiting to see whether age discrimination would be judged by the same parameters as sex and race. In sex and race you can only justify indirect discrimination. This case shows that the test is different for age, and that you can justify direct age discrimination – providing you are as diligent in your research as Freshfields."

Simmons & Simmons London head of employment Simon Watson added: "This is good news for partnerships. It has defined age discrimination for them."